

IAP15 Rec'd PCT/PTO 21 JUN 2006

Attorney Docket No.: 2543-1-045PCT/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Steven Bates EXAMINER : Shen, Bin
SERIAL NO. : 10/537,581 ART UNIT : 1655
FILED : October 7, 2005
FOR : TRL1 AS AN ANTIFUNGAL TARGET

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450 on June 19, 2006.

Lois A. Snure
(Name of Depositor)

Lois A. Snure 6/19/06
(Signature and Date)

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Restriction Requirement mailed from the U.S. Patent and Trademark Office on May 26, 2006 having a due date for response of June 26, 2006. It is believed that no fees are due in connection with this submission, however, if any fees are due, please charge our Deposit Account No. 11-1153.

Regarding Restriction Requirement

The Examiner requires selecting one group of claims for examination. The groups are as follows:

- Group I, claims 1-3, drawn to a method of screening for antifungal compounds
- Group II, claims 4-7, drawn to a modified eukaryotic cell
- Group III, claim 8, drawn to a method of screening using a cell
- Group IV, claim 9, drawn to a compound

Group V, claim 10, drawn to a composition

Group VI, claim 11, drawn to a tRNA ligase

Group VII, claims 14-16 and 18, drawn to a method of treatment in a host

Group VIII, claims 19-22, drawn to a method of treatment in a subject

Group IX, claim 17, drawn to a compound

Applicants herein elect Group I, claims 1-3, directed to a method of screening for antifungal compounds. Applicants respectfully request reconsideration of the Requirement for Restriction to allow prosecution of more than one group of claims designated by the Examiner in the present Application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the Search and Examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

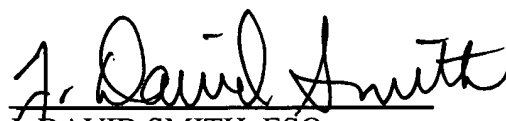
Applicants respectfully submit that the groups designated by the Examiner fail to define compositions with properties so distinct as to warrant separate Examination and Search. The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that conjoint examination and inclusion of all of the Claims of the present Application would not

present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, is in order.

CONCLUSION

It is believed that all of the claims are patentable and early notification as such is earnestly solicited. If any issues may be resolved by way of telephone, the Examiner is invited to call the undersigned at the telephone number indicated below.

Respectfully submitted,


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